

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC: INTL

PLR-158889-06

Date:

May 21, 2007

Taxpayer =

Subsidiary =

Entity 1 =

Entity 2 =

Entity 3 =

Entity 4 =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Year 5 =

Country A =

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Dear _____ :

This is in response to your representative's letter dated December 22, 2006, requesting an extension of time under Treas. Reg. § 301.9100-3 to file certain elections under Treas. Reg. § 1.1503-2(g)(2)(i) or Treas. Reg. § 1.1503-2T(g)(2)(i), as applicable, ("(g)(2)(i) elections") with respect to dual consolidated losses attributable to the entities described below for Years 1 through 5. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

Entity 1 is a foreign partnership. The interests in Entity 1 are hybrid entity separate units as described in Treas. Reg. § 1.1503-2(c)(4). Entity 1 conducts business through a foreign branch ("Entity 1 Branch") (within the meaning of Treas. Reg. § 1.367(a)-6T(g)) in Country A. Taxpayer and Subsidiary, a wholly-owned subsidiary of Taxpayer, each held an interest in Entity 1 Branch during Years 1 through 5. Each interest in Entity 1 Branch is a separate unit as described in Treas. Reg. § 1.1503-2(c)(3)(i)(B). Entity 1 Branch incurred dual consolidated losses in Years 1 through 4 that are attributable to Taxpayer's and Subsidiary's interests in Entity 1 Branch. No dual consolidated losses were attributable to the interests in Entity 1.

Entity 1 owns directly or indirectly 100% of Entities 2, 3, and 4.

Entity 2 is disregarded as an entity separate from its owner. The interest in Entity 2 is a hybrid entity separate unit as described in Treas. Reg. § 1.1503-2(c)(4). Entity 2 has activities in Country A that constitute a foreign branch ("Entity 2 Branch") within the meaning of Treas. Reg. § 1.367(a)-6T(g). Taxpayer and Subsidiary each had an indirect interest in Entity 2 Branch. Each interest in Entity 2 Branch is a separate unit described in Treas. Reg. § 1.1503-2(c)(3)(i)(A). Dual consolidated losses were attributable to Taxpayer and Subsidiary's interests in Entity 2 Branch in Years 3 through 5. No dual consolidated losses were attributable to the interest in Entity 2.

Entity 3 is disregarded as an entity separate from its owner. The interest in Entity 3 is a hybrid entity separate unit as described in Treas. Reg. § 1.1503-2(c)(4). Entity 3 has activities in Country A that constitute a foreign branch ("Entity 3 Branch") within the meaning of Treas. Reg. § 1.367(a)-6T(g). Taxpayer and Subsidiary each had an indirect interest in Entity 3 Branch. Each interest in Entity 3 Branch is a separate unit

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described in Treas. Reg. § 1.1503-2(c)(3)(i)(A). Dual consolidated losses were attributable to Taxpayer's and Subsidiary's interest in Entity 3 Branch in Years 1, 3, and 4. No dual consolidated losses were attributable to the interest in Entity 3.

Entity 4 is disregarded as an entity separate from its owner. The interest in Entity 4 is a hybrid entity separate unit as described in Treas. Reg. § 1.1503-2(c)(4). Entity 4 has activities in Country A that constitute a foreign branch ("Entity 4 Branch") within the meaning of Treas. Reg. § 1.367(a)-6T(g). Taxpayer and Subsidiary each had an indirect interest in Entity 4 Branch. Each interest in Entity 4 Branch is a separate unit described in Treas. Reg. § 1.1503-2(c)(3)(i)(A). Dual consolidated losses were attributable to Taxpayer's and Subsidiary's interest in Entity 4 Branch in Year 5. No dual consolidated losses were attributable to the interest in Entity 4.

Taxpayer's tax department prepared the company's U.S. consolidated tax returns for Years 1 through 4. For dual consolidated loss calculation purposes, the operating results of the foreign branches held by Entities 1 through 4 were combined based on Taxpayer's assumption that the income and/or losses of the Country A group entities could be aggregated in arriving at a single dual consolidated amount. In Year 1, the aggregation resulted in a net dual consolidated loss for the group, and accordingly, Taxpayer filed a single (g)(2)(i) election for the Year 1 tax year naming Entity 1 as the loss entity, and the net dual consolidated loss was reported.

In Years 2, 3, and 4, Taxpayer's aggregation of the individual Country A Group members' income and losses resulted in net income. On that basis, Taxpayer did not file (g)(2)(i) elections for those years despite the fact that, individually, Entity 1, Entity 2, and/or 3 incurred dual consolidated losses in one or more of the years during this time period.

Taxpayer's tax department prepared the company's U.S. consolidated tax returns for Year 5. The branches held by Entities 2 and 4 incurred dual consolidated losses in Year 5, while the branches held by Entities 1 and 3 each had income for the year. Taxpayer prepared and filed (g)(2)(i) elections for the Year 5 dual consolidated losses of Entity 2 and Entity 4 Branches. However the elections were not filed on a separate unit interest basis for each of Taxpayer's and Subsidiary's interests in the branches held by Entities 2 and 4.

Taxpayer represents that the income tax laws of Country A do not deny the use of losses, expenses, or deductions of Entities 1 through 4 to offset income of another person because the dual resident corporation or separate unit is also subject to income taxation by another country on its worldwide income or on a residence basis.

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Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in Treas. Reg. § 301.9100-3, to make a regulatory election under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I.

Treas. Reg. § 301.9100 -1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

In the present situation, the filings described in Treas. Reg. § 1.1503-2(g)(2) or Treas. Reg. § 1.1503-2T(g)(2), as applicable, are regulatory elections as defined in Treas. Reg. § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in Treas. Reg. § 301.9100-3(a).

Based on the facts and information submitted, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file the required (g)(2)(i) elections with respect to the dual consolidated losses associated with Taxpayer's and Subsidiary's separate unit interests in the foreign branches held by Entities 1 through 4 in Years 1 through 5. Taxpayer is not required to file annual certifications under the facts submitted by Taxpayer because the Taxpayer's and Subsidiary's dual consolidated losses are attributable to separate units described in Treas. Reg. § 1.1503-2(c)(3)(i)(A) and, therefore, an extension of time is not necessary in this regard. Treas. Reg. § 1.1503-2(g)(2)(vi)(C).

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the elections. §301.9100-1(a). For example, a taxpayer that is subject to mirror legislation enacted by a foreign country may be ineligible to file elections pursuant to §1.1503-2(c)(15)(iv).

A copy of this ruling letter should be associated with the elections that are the subject of this ruling.

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This ruling is directed only to the taxpayer who requested it. I.R.C. § 6110(k)(3) provides that it may not be used or cited as precedent. No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to Taxpayer's and Subsidiary's authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: _____
Richard L. Chewning
Senior Counsel
Office of Associate Chief Counsel (International)

Enclosure: